

THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION
CIVIL CASE NO. 2:12-cv-000044-MR

JACK HERZBERG and KRISTINE)
HERZBERG,)
Plaintiffs,)
vs.) O R D E R
WELLS FARGO BANK, N.A.,)
Defendant.)

)

THIS MATTER is before the Court on the Defendant's Motion to Dismiss [Doc. 5].

The facts, legal issues, and causes of action asserted by the parties in the present matter are substantially similar to those in the case of Beritelli, et al. v. Wells Fargo Bank, N.A., et al., No. 1:11-cv-00179-MR (W.D.N.C.), and the same attorneys appear on behalf of the parties in both actions. Even though these cases have not been consolidated, and were in fact previously severed [see Civil Case No. 1:11-cv-00179-MR, Doc. 83], the decision of this Court in the Order previously entered in Beritelli addresses and disposes of all of the issues raised by the motion currently

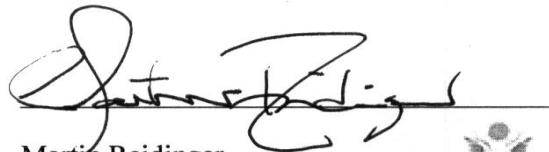
before the Court in this matter. The Order in Beritelli, therefore, is incorporated herein, and the current motion will be disposed of in accord therewith.

ORDER

IT IS, THEREFORE ORDERED that the Defendant's Motion to Dismiss [Doc. 5] is **GRANTED IN PART** and **DENIED IN PART**. Specifically, with respect to the Plaintiff's claim for negligent misrepresentation, the Motion to Dismiss [Doc. 5] is **GRANTED** and this claim is **DISMISSED**. In all other respects, the Motion to Dismiss [Doc. 5] is **DENIED**.

IT IS SO ORDERED.

Signed: September 30, 2013



Martin Reidinger
United States District Judge

